

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HEALTHIER CHOICE FLOORING,
LLC,

Plaintiff,

v.

CCA GLOBAL PARTNERS, INC.,
CARPET ONE, INC., DALTON
CARPET ONE FLOOR & HOME, and
ETOWAH CARPET ONE FLOOR &
HOME,

Defendants.

Civ. Act. No. 1:11-cv-02504-CAP

JOINT PRELIMINARY REPORT AND DISCOVERY PLAN

1. Description of Case:

(a) Describe briefly the nature of this action.

Healthier Choice, plaintiff in this action, asserts claims of trademark infringement, unfair competition, trademark dilution, and deceptive trade practices. Healthier Choice contends that defendants committed acts that constitute trademark infringement under the Lanham Act (15 U.S.C. § 1114), Georgia law (O.C.G.A. § 10-1-450, *et seq.*), and/or common law; unfair competition under the

14. Trial by Magistrate Judge:

Note: Trial before a Magistrate Judge will be by jury trial if a party is otherwise entitled to a jury trial.

- (a) The parties (_____) do consent to having this case tried before a magistrate judge of this Court. A completed Consent to Jurisdiction by a United States Magistrate Judge form has been submitted to the clerk of court this _____ day _____, of 2011.
- (b) The parties (X) do not consent to having this case tried before a magistrate judge of this Court.

/s/ Jeffrey J. Toney
Counsel for Plaintiff

/s/ Dean L. Franklin
Counsel for Defendant

* * * * *

SCHEDULING ORDER

Upon review of the information contained in the Joint Preliminary Report and Discovery Plan form completed and filed by the parties, the Court orders that the time limits for adding parties, amending the pleadings, filing motions, completing discovery, and discussing settlement are as set out in the Federal Rules of Civil Procedure and the Local Rules of this Court, except as herein modified:

The discovery period will be for a six month period, which began on December 1, 2011 and will end on June 1, 2012;

Initial and Expert Disclosures will be due on December 16, 2011;

The deadline for submitting an expert report on issues for which a party bears the burden of proof is March 2, 2012;

The deadline for submitting an expert report on issues for which a party does not bear the burden of proof is April 13, 2012;

Daubert motions with regard to expert testimony shall be filed no later than 30 days after the close of discovery.

The deadline for deposing an expert is thirty (30) days after the date on which the particular expert's report was served;

The parties are to engage in mediation to discuss settlement by March 30, 2012.

IT IS SO ORDERED, this 5th day of December, 2011.

/s/Charles A. Pannell, Jr.
CHARLES A. PANNELL, JR.
UNITED STATES DISTRICT JUDGE

/s/ Jeffrey J. Toney
Jeffrey J. Toney
Georgia Bar No. 714615
John L. North
Georgia Bar No. 545580
Paul G. Williams
Georgia Bar No. 764925
Meghan M. Rachford
Georgia Bar No. 766229
KASOWITZ, BENSON, TORRES &
FRIEDMAN LLP
One Midtown Plaza, Suite 1150
1360 Peachtree St., N.E.
Atlanta, GA 30309
Telephone: 404-260-6080
Facsimile: 404-260-6081
Email: jtoney@kasowitz.com
jnorth@kasowitz.com
pwilliams@kasowitz.com
mrachford@kasowitz.com

/s/ Dean L. Franklin
Michael Jay Goldman
Georgia Bar No. 300100
Robert Sheffield Thompson
Georgia Bar No. 709650
HAWKINS PARNELL THACKSTON
& YOUNG, LLP
303 Peachtree Street, N.E.
4000 SunTrust Plaza
Atlanta, GA 30308-3243
Telephone: 404-614-7400
Email: mgoldman@hptylaw.com
rthompson@hptylaw.com

AND

Dean L. Franklin
Jonathan G. Musch
THOMPSON COBURN LLP
One US Bank Plaza
St. Louis, MO 63101

*Attorneys for Plaintiff Healthier Choice
Flooring, LLC*

Telephone: 314-552-6038

Facsimile: 314-552-7038

Email: dfranklin@thompsoncoburn.com
jmusch@thompsoncoburn.com

*Attorneys for Defendants CCA Global
Partners, Inc., Carpet One, Inc., Dalton
Carpet One Floor & Home, and Etowah
Carpet One Floor & Home*